

Dear Commissioners of the Federal Communications Commission,

I have been informed of troubling developments in regard to a proposal for a “broadcast flag” to affect recording of broadcast programs by consumers. I must state my objections to this proposal because this was tried before by RealNetworks, Inc. in their RealPlayer Plus product with absolutely disastrous consequences.

RealNetworks distributes the RealPlayer software that is used for their brand of streaming Internet video. This program is distributed free via the website at www.real.com. It was the first major audio-over-the-internet delivery program (then known as RealAudio Player). When the software was first distributed, it was made as a free encoder, a free player, and a not-free server. The RealPlayer system used, and still for the most part uses a proprietary scheme to transmit the sound across the Internet. The file encoding is also proprietary. As a result, only RealPlayer understood how this scheme worked and was the only viable means of receiving Real transmitted broadcast.

In response to customer complaints about the lack of functionality, RealNetworks produced a “premium” client called RealPlayer Plus. To pacify the “content providers” who were under the impression their recordings could not be recorded, RealNetworks restricted RealPlayer Plus from recording recordings that do not contain a flag that expressly permits the user to record them.

This was a fatal mistake for RealNetworks. The encoder defaulted to not-permitting-recording and with few exceptions, every RealAudio/RealVideo stream was unrecordable, either because content providers saw no value in permitting recording or because they were unaware of the restriction. As a result of this, sales of RealPlayer Plus were never very good, as consumers saw no value in the useless feature.

Should the Commission adopt this insane rule mandating this failed scheme, the paranoid television networks lobbying for this **WILL USE THE BROADCAST FLAG ON EVERY SINGLE BROADCAST AND WILL COMPLETELY PROHIBIT HOME RECORDING OF SUCH**. I cannot emphasize that enough. They will. Combined with the Commission's mandate for a complete switch to digital television, this will be the end of time shifting technologies such as the VCR and PVR. They won't exist. Any home recordings following will be either home movies shot on camcorders or DVDs purchased from Hollywood studios.

I therefore submit to the Commission my **STRONG** opposition to this proposal. It must not be approved unless you expect us to go back to the old days of having to "hold it till the commercial" or having to beat the clock on the freeway to avoid missing a favored show.

Respectfully Submitted,

Jonathan Fether